

House Bill 3077

Sponsored by Representative HUNT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires medical marijuana registry identification cardholder to be Oregon resident.

A BILL FOR AN ACT

1 Relating to medical marijuana; amending ORS 475.309.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 475.309 is amended to read:

4 475.309. (1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or as-
5 sisting in the medical use of marijuana is excepted from the criminal laws of the state for possession,
6 delivery or production of marijuana, aiding and abetting another in the possession, delivery or pro-
7 duction of marijuana or any other criminal offense in which possession, delivery or production of
8 marijuana is an element if the following conditions have been satisfied:

9 (a) The person holds a registry identification card issued pursuant to this section, has applied
10 for a registry identification card pursuant to subsection [(9)] **(2) or (3)** of this section, is the desig-
11 nated primary caregiver of the cardholder or applicant, or is the person responsible for a marijuana
12 grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and

13 (b) The person who has a debilitating medical condition, the person's primary caregiver and the
14 person responsible for a marijuana grow site that is producing marijuana for the cardholder and is
15 registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for
16 medical use in amounts allowed under ORS 475.320.

17 (2) The Oregon Health Authority shall establish and maintain a program for the issuance of
18 registry identification cards to [*persons*] **Oregon residents** who meet the requirements of this sec-
19 tion. Except as provided in subsection (3) of this section, the authority shall issue a registry iden-
20 tification card to any person who pays a fee in the amount established by the authority and provides
21 the following:

22 (a) Valid, written documentation from the person's attending physician stating that the person
23 has been diagnosed with a debilitating medical condition and that the medical use of marijuana may
24 mitigate the symptoms or effects of the person's debilitating medical condition;

25 (b) The name, address and date of birth of the person;

26 **(c) Documentation showing that the person is an Oregon resident;**

27 [(c)] **(d)** The name, address and telephone number of the person's attending physician;

28 [(d)] **(e)** The name and address of the person's designated primary caregiver, if the person has
29 designated a primary caregiver at the time of application; and

30 [(e)] **(f)** A written statement that indicates whether the marijuana used by the cardholder will
31 be produced at a location where the cardholder or designated primary caregiver is present or at
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 another location.

2 (3) The authority shall issue a registry identification card to a person who is under 18 years of
3 age if the person submits the materials required under subsection (2) of this section, and the custo-
4 dial parent or legal guardian with responsibility for health care decisions for the person under 18
5 years of age signs a written statement that:

6 (a) The attending physician of the person under 18 years of age has explained to that person
7 and to the custodial parent or legal guardian with responsibility for health care decisions for the
8 person under 18 years of age the possible risks and benefits of the medical use of marijuana;

9 (b) The custodial parent or legal guardian with responsibility for health care decisions for the
10 person under 18 years of age consents to the use of marijuana by the person under 18 years of age
11 for medical purposes;

12 (c) The custodial parent or legal guardian with responsibility for health care decisions for the
13 person under 18 years of age agrees to serve as the designated primary caregiver for the person
14 under 18 years of age; and

15 (d) The custodial parent or legal guardian with responsibility for health care decisions for the
16 person under 18 years of age agrees to control the acquisition of marijuana and the dosage and
17 frequency of use by the person under 18 years of age.

18 (4) A person applying for a registry identification card pursuant to this section may submit the
19 information required in this section to a county health department for transmittal to the authority.
20 A county health department that receives the information pursuant to this subsection shall transmit
21 the information to the authority within five days of receipt of the information. Information received
22 by a county health department pursuant to this subsection [*shall be*] **is** confidential and not subject
23 to disclosure, except as required to transmit the information to the authority.

24 (5)(a) The authority shall verify the information contained in an application submitted pursuant
25 to this section and shall approve or deny an application within thirty days of receipt of the appli-
26 cation.

27 (b) In addition to the [*authority*] **power** granted to the authority under ORS 475.316 to deny an
28 application, the authority may deny an application for the following reasons:

29 (A) The applicant did not provide the information required pursuant to this section to establish
30 the applicant's debilitating medical condition and to document the applicant's consultation with an
31 attending physician regarding the medical use of marijuana in connection with such condition, as
32 provided in subsections (2) and (3) of this section;

33 **(B) The applicant is not an Oregon resident;**

34 [*(B)*] (C) The authority determines that the information provided was falsified; or

35 [*(C)*] **(D)** The applicant has been prohibited by a court order from obtaining a registry identifi-
36 cation card.

37 (c) Denial of a registry identification card [*shall be considered*] **is** a final authority action, sub-
38 ject to judicial review. Only the person whose application has been denied, or, in the case of a
39 person under the age of 18 years of age whose application has been denied, the person's parent or
40 legal guardian, [*shall have*] **has** standing to contest the authority's action.

41 (d) [*Any*] **A** person whose application has been denied may not reapply for six months from the
42 date of the denial, unless so authorized by the authority or a court of competent jurisdiction.

43 (6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3)
44 of this section and none of the reasons for denial listed in subsection (5)(b) of this section is appli-
45 cable, the authority shall issue a serially numbered registry identification card within five days of

1 verification of the information. The registry identification card *[shall]* **must** state:

2 (A) The cardholder's name, address and date of birth;

3 (B) The date of issuance and expiration date of the registry identification card;

4 (C) The name and address of the *[person's]* **cardholder's** designated primary caregiver, if any;

5 (D) Whether the marijuana used by the cardholder will be produced at a location where the
6 cardholder or designated primary caregiver is present or at another location; and

7 (E) Any other information that the authority may specify by rule.

8 (b) When *[the person to whom the authority has issued a registry identification card pursuant to*
9 *this section]* **a registry identification cardholder** has specified a designated primary caregiver, the
10 authority shall issue an identification card to the designated primary caregiver. The primary
11 caregiver's *[registry]* identification card *[shall]* **must** contain the information provided in paragraph
12 (a) of this subsection.

13 (7)(a) A *[person who possesses a registry identification card]* **registry identification cardholder**
14 shall:

15 (A) Notify the authority of any change in the *[person's]* **cardholder's** name, address, attending
16 physician or designated primary caregiver.

17 (B) If applicable, notify the designated primary caregiver of the cardholder and the person re-
18 sponsible for the marijuana grow site that produces marijuana for the cardholder of any change in
19 status including, but not limited to:

20 (i) The assignment of another individual as the designated primary caregiver of the cardholder;

21 (ii) The assignment of another individual as the person responsible for a marijuana grow site
22 producing marijuana for the cardholder; or

23 (iii) The end of the eligibility of the cardholder to hold a valid registry identification card.

24 (C) Annually submit to the authority:

25 (i) Updated written documentation from the cardholder's attending physician of the person's
26 debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or
27 effects of the *[person's]* **cardholder's** debilitating medical condition; and

28 (ii) The name of the *[person's]* **cardholder's** designated primary caregiver if a primary caregiver
29 has been designated for the upcoming year.

30 (b) If a *[person who possesses a registry identification card]* **registry identification cardholder**
31 fails to comply with this subsection, the card *[shall be deemed expired]* **expires**. If a registry iden-
32 tification card expires, the identification card of any designated primary caregiver of the cardholder
33 *[shall]* also *[expire]* **expires**.

34 **(8) If a registry identification cardholder ceases to be an Oregon resident, the registry**
35 **identification card expires. The cardholder shall return the registry identification card and**
36 **any other associated Oregon Medical Marijuana Program cards to the authority within 30**
37 **calendar days after ceasing to be an Oregon resident.**

38 *[(8)(a)]* **(9)(a)** A *[person who possesses a registry identification card pursuant to this section and]*
39 **registry identification cardholder** who has been diagnosed by the *[person's]* **cardholder's** attend-
40 ing physician as no longer having a debilitating medical condition or whose attending physician has
41 determined that the medical use of marijuana is contraindicated for the *[person's]* **cardholder's**
42 debilitating medical condition shall return the registry identification card and any other associated
43 Oregon Medical Marijuana Program cards to the authority within 30 calendar days of notification
44 of the diagnosis or notification of the contraindication.

45 (b) If, due to circumstances beyond the control of the registry identification cardholder, a

1 cardholder is unable to obtain a second medical opinion about the cardholder’s continuing eligibility
 2 to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has
 3 expired, the authority may grant the cardholder additional time to obtain a second opinion before
 4 requiring the cardholder to return the registry identification card and any associated cards.

5 [(9)] (10) A person who has applied for a registry identification card pursuant to this section but
 6 whose application has not yet been approved or denied, and who is contacted by any law enforce-
 7 ment officer in connection with the person’s administration, possession, delivery or production of
 8 marijuana for medical use may provide to the law enforcement officer a copy of the written docu-
 9 mentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of
 10 the date of mailing or other transmission of the documentation to the authority. This documentation
 11 [shall have] **has** the same legal effect as a registry identification card until [such time as] the person
 12 receives notification that the application has been approved or denied.

13 [(10)] (11) A registry identification cardholder has the primary responsibility of notifying the
 14 primary caregiver and person responsible for the marijuana grow site that produces marijuana for
 15 the cardholder of any change in status of the cardholder. If the authority is notified by the
 16 cardholder that a primary caregiver or person responsible for a marijuana grow site has changed,
 17 the authority shall notify the primary caregiver or the person responsible for the marijuana grow
 18 site by mail at the address of record confirming the change in status and informing the caregiver
 19 or person that [their card] **the caregiver’s identification card or the person’s marijuana grow**
 20 **site registration card** is no longer valid and must be returned to the authority.

21 [(11)] (12) The authority shall revoke [the] **a** registry identification card [of a cardholder] if a
 22 court has issued an order that prohibits the cardholder from participating in the medical use of
 23 marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300
 24 to 475.346. The cardholder shall return the registry identification card **and any other associated**
 25 **Oregon Medical Marijuana program cards** to the authority within seven calendar days of notifi-
 26 cation of the revocation. [If the cardholder is a patient, the patient shall return the patient’s card and
 27 all other associated Oregon Medical Marijuana Program cards.]

28 [(12)] (13) The authority and employees and agents of the authority acting within the course and
 29 scope of their employment are immune from any civil liability that might be incurred or imposed for
 30 the performance of or failure to perform duties required by this section.

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